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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

8 | ANTHONY S. BERRINGER,

Plaintiff,

No. C 12-0021 PJH (PR)

v.

## **ORDER FOR PLAINTIFF TO SHOW CAUSE**

11 || F. MEZA, et al.,

## Defendants.

14        This is a pro se civil rights complaint under 42 U.S.C. § 1983 filed by a state  
15 prisoner. A prisoner plaintiff, such as plaintiff here, may not bring a civil action or appeal a  
16 civil judgment in forma pauperis "if the prisoner has, on 3 or more prior occasions, while  
17 incarcerated or detained in any facility, brought an action or appeal in a court of the United  
18 States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a  
19 claim upon which relief may be granted, unless the prisoner is under imminent danger of  
20 serious physical injury." 28 U.S.C. § 1915(g). "Section 1915(g)'s cap on prior dismissed  
21 claims applies to claims dismissed both before and after the [PLRA's] effective date."  
22 *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir 1997).

23 It appears that plaintiff has had at least four cases previously dismissed as frivolous,  
24 malicious, or for failure to state a claim. These are: *Berringer v. Salinas Valley State*  
25 *Prison*, C 06-0270 CW (PR) (N.D. Cal. Jan. 8, 2008 (dismissal for failure to state a claim);  
26 *Berringer v. Salinas Valley State Prison Kitchen Staff*, C 06-2839 CW (PR) (N.D. Cal. Nov.  
27 1, 2006) (dismissing duplicative complaint as abusive); *Berringer v. Chaverine*, C 06-5832  
28 CW (PR) (N.D. Cal. Nov. 1, 2006) (dismissing duplicative complaint as abusive); *Berringer*

1     *v. California Department of Corrections*, C 07-3353 (N.D. Cal. July 13, 2007) (dismissing  
2     duplicative complaint as abusive).

3                 Plaintiff shall show cause within thirty days of the date this order is served why leave  
4     to proceed IFP should not be denied because of the "strikes" identified above. If he does  
5     not respond or is unable to demonstrate that two or more of the cases listed above should  
6     not be considered strikes, leave to proceed in forma pauperis will be denied.

7                 **IT IS SO ORDERED.**

8     Dated: March 26, 2012.



9                 PHYLLIS J. HAMILTON  
United States District Judge